IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

MFA.No. 936 of 2002()

OPMV.699/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANT: PETITIONER

MUHAMMED, SON OF VEERAVU,
AGED 58 YEARS, MOOCHIKKAL HOUSE, VARODE POST,
OTTAPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.O.P.NANDAKUMAR
SRI.V.A.AJAI KUMAR

RESPONDENTS: RESPONDENTS
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1. MRS.LATHA VISWANATHAN, FATHER'S NAME
NOT KNOWN, AGE NOT KNOWN, THRIPURA, PUM HOUSE,
ROAD, KANNIAMPURAM POST, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

2. SURESH ALIAS KONDALVARNAN, SON OF
SANKUNNI, AGED 29 YEARS, KODALIYIL HOUSE,
KANNIAMPURAM POST, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

3. THE NEW INDIA ASSURANCE COMPANY LIMITED
BRANCH OFFICE, THANIKKAL BUILDING, MAIN ROAD,
OTTAPALAM.

BY ADV. SRI.N.S.MOHAMMED USMAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 936 OF 2002

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Dated this the 21st day of November, 2007

J U D G M E N T

Heard. Admitted. Shri N.S. Mohammed Usman takes notice for the third respondent. Notice to respondents 1 and 2 is dispensed with. Appeal itself is heard and disposed of.

2. Petitioner in O.P(MV) No.699 of 1999 on the file of the Motor Accidents Claims Tribunal, Ottapalam, is the appellant. Petitioner sustained injuries in a motor vehicle accident. He filed the O.P. claiming a compensation of Rs.1,00,000/-. Tribunal awarded a compensation of Rs.30,950/-. Complaining that the quantum of compensation awarded is inadequate, the petitioner himself has filed this appeal. The only point arising for consideration is whether the appellant is entitled to any additional compensation.

3. Learned counsel appearing for the appellant has argued that the Tribunal took Rs.1,500/- as the income and that amount is in the lower side. Tribunal had awarded Rs.9,000/- towards loss of earning capacity. According to me

the Tribunal ought to have awarded Rs.7,500/- more under that count. But I do not find any ground to interfere with the compensation awarded by the Tribunal on other counts. So the appellant is entitled to an additional compensation of Rs.7,500/- which will carry interest at the rate of 6% per annum.

In the result, appeal is allowed in part. An award is passed in favour of the appellant authorising him to recover an amount of Rs.7,500/- with 6% interest per annum from the date of petition till date of realisation as additional compensation. Third respondent-Insurer is directed to deposit that amount also. On deposit, the appellant can withdraw the entire amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 936 OF 2002

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J U D G M E N T

21ST NOVEMBER, 2007